

The Gazette



of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No. 322] NEW DELHI, SATURDAY DECEMBER 26, 1953

MINISTRY OF STATES

ORDER

New Delhi the 26th December 1953

The High Court Judges (Part B States) Order, 1953.

S.R.O. 2372.—In exercise of the powers conferred by article 221 of the Constitution of India, as applied to the States in Part B of the First Schedule by clause (13) of article 238 thereof, the President, after consultation with the Rajpramukhs, is pleased to make the following Order, namely—

PART I—Preliminary

1. **Short title and commencement.**—(1) This Order may be called the High Court Judges (Part B States) Order, 1953.

(2) It shall come into force at once.

2. **Interpretation.**—(1) In this order, unless the context otherwise requires,—

(a) "actual service" includes—

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may, at the request of the President, undertake to discharge;

(ii) vacations, excluding any time during which the Judge is absent on leave;

(iii) joining time on transfer from a High Court to the Supreme Court or from one High Court to another or from the Supreme Court to a High Court;

(iv) time spent by a Judge to attend the sittings of the Supreme Court as an *ad hoc* Judge under article 127 of the Constitution;

(b) "continuing Judge" means a person who has become a Judge of the High Court in a Part B State on the commencement of the Constitution by virtue of the provisions of clause (2) of article 376 thereof;

(c) "High Court" means a High Court in a Part B State;

(d) "Judge" means a Judge of a High Court in a Part B State and includes the Chief Justice or acting Chief Justice of a High Court in a Part B State;

(e) "Part B State" means a State specified in Part B of the First Schedule to the Constitution, other than the State of Jammu and Kashmir;

(f) "service for pension" includes—

(i) actual service rendered after the 25th January, 1950;

- (ii) one month or the amount actually taken, whichever is less, of each period of leave on full allowances;
 - (iii) in the case of a person who is or has been a continuing Judge,—
 - (a) if he has rendered previous service for any period before the 26th January, 1950, as the Chief Justice of acting Chief Justice of a High Court in a former Indian State or as the President or a Member of a Court having jurisdiction higher than that of a High Court in a former Indian State, the whole of such period, such service being reckoned as service, not as Chief Justice but as any other Judge; or
 - (b) if he has rendered previous service for any period before the 26th January, 1950, as any other Judge of a High Court in a former Indian State, half of such period.
- (2) Any period of leave taken by a Judge after the 25th January, 1950, and before the commencement of this Order under the rules then applicable to him as a Judge shall for the purposes of this Order be treated as if it were leave taken by him under this Order.

(3) The General Clauses Act, 1897 (X of 1897) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II—Leave and Leave Allowances.

3. Leave.—(1) Subject to the provisions of this Order, leave granted to a Judge may be at his option either—

- (a) leave on full allowances; or
- (b) leave on half allowances; or
- (c) leave partly on full allowances and partly on half allowances.

(2) For the purposes of this Part, any period of leave on full allowances shall be reckoned as double that period of leave on half allowances.

(3) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half allowances.

(4) In the leave account of a Judge—

(a) there shall be credited to him—

- (i) one-fourth of the time spent by him on actual service; and
- (ii) where the Judge, by reason of his having been detained for the performance of duties not connected with the High Court, cannot enjoy any vacation which he would otherwise have been entitled to enjoy, had he not been so detained, as compensation for the vacation not enjoyed, a period equal to double the period by which the vacation enjoyed by him in any year falls short of one month; and

(b) there shall be debited to him all leave with allowances taken by him.

(5) The aggregate amount of leave which may be granted to a Judge during the whole period of his service as such shall not exceed in terms of leave on half allowances three years together with the aggregate of the periods, if any, credited to his leave account under sub-paragraph (4)(a)(ii) as compensation for vacation not enjoyed.

(6) The aggregate amount of leave on full allowances which may be granted to a Judge during the whole period of his service as such shall not exceed one-twenty-fourth of the period spent by him on actual service together with one-half of the aggregate periods, if any, credited to his leave account under sub-paragraph (4)(a)(ii) as compensation for vacation not enjoyed.

(7) The maximum period of leave which may be granted at one time shall be, in the case of leave on full allowances, five months and in the case of leave with allowances of any kind, sixteen months.

(8) Subject to the maximum limit specified in sub-paragraph (5), leave on half allowances may be granted to a Judge in excess of the amount at his credit—

- (i) on medical certificate; or
- (ii) otherwise than on medical certificate, for not more than six months and not more than once during the whole period of his service as a Judge:

Provided that no such leave shall be granted if the Judge is not expected to return to duty at the end of such leave and earn the leave granted.

4. Special disability leave.—The rules for the time being in force with respect to the grant of special disability leave in relation to an officer of the Central Civil Services; Class I. who has entered service on or after the 16th July 1931 and who may be disabled by injury caused in, or in consequence of, the due performance of his official duties or in consequence of his official position, shall apply in relation to a Judge.

5. Extraordinary leave.—Extraordinary leave not exceeding six months in duration may be granted to a Judge not more than once during the whole period of his service as a Judge in excess of any leave permissible under the forgoing provisions of this Part, but no salary or allowances shall be payable during, or in respect of, such leave.

6. Leave allowances.—(1) The monthly rate of leave allowances payable to a Judge while on leave on full allowances shall be for the first month of such leave a rate equal to the monthly rate of his salary, and thereafter in accordance with the scale specified in the First Schedule to this Order.

(2) The monthly rate of leave allowances payable to a Judge while on leave on half allowances shall be in accordance with the scale specified in the First Schedule to this Order.

7. Combination of vacation with leave.—(1) A Judge may be permitted to combine vacation on full salary with leave, if,—

- (a) where the vacation consists of one continuous period, the leave is taken either at the commencement or at the end of the vacation but not at both;
- (b) where the vacation is divided into two separate periods, the leave is taken for the interval, or part of the interval, between the two periods of that vacation, or for the interval, or part of the interval, between the second period of that vacation and the commencement of the next ensuing vacation:

Provided that no such permission to combine vacation with leave shall be granted if it becomes necessary to appoint an acting Chief Justice during the period of vacation or if the Judge is not expected to return to duty at the end of such leave.

8. Overstaying of leave.—If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary for the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be:

Provided that, if such absence is due to circumstances beyond his control; the period thereof may be treated as leave and be debited to his leave account.

9. Authority competent to grant leave, etc.—The authority competent to grant or refuse leave to a Judge or to revoke or curtail leave granted to a Judge shall be the Rajpramukh of the State in which the principal seat of the High Court is situate, after consultation with the Chief Justice of that High Court.

PART III—Pensions

10. Eligibility for pension.—(1) Subject to the provisions of this Order, a pension shall be payable to a Judge on his retirement if, but only if, either—

- (a) he has completed not less than twelve years of service for pension; or
- (b) he has attained the age of sixty years; or
- (c) his retirement is medically certified to be necessitated by ill-health; or
- (d) his retirement is necessitated by reason of the expiry of the period of his office as determined by an order of the President under clause (2) of article 376 of the Constitution.

(2) The President may, for special reasons, direct that any period not exceeding three months shall be added to the service for pension of a Judge:

Provided that the period so added shall be disregarded in calculating any additional pension under the Second Schedule to this Order.

11. Scale of pension.—Subject to the provisions of this Order, every Judge shall, as from the date of his retirement, be paid a pension in accordance with the scale and rules specified in the Second Schedule to this Order.

12. Pension to a Judge who is a member of Civil Service.—(1) The provisions of this paragraph shall apply in relation to a Judge who has held any civil pensionable post under the Union or a State.

(2) If any such Judge as aforesaid is eligible for a pension under paragraphs 10 and 11 of this Order, he shall elect to receive either that pension or such pension as is referred in sub-paragraph (3).

(3) If any such Judge is not eligible for a pension under paragraphs 10 and 11 of this Order, or being eligible for such a pension, elects not to receive that pension, the pension payable to such a Judge shall be—

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service as a Judge being treated as service therein for the purpose of calculating the pension under the said rules; and

(b) a special additional pension—

(i) of five hundred rupees per annum, in respect of each completed year of service for pension either as a Chief Justice or as any other Judge on a rate of pay of not less than two thousand two hundred and fifty rupees per month;

(ii) of three hundred rupees per annum, in respect of each completed year of service for pension as any other Judge on a rate of pay of less than two thousand two hundred and fifty rupees per month;

Provided that in no case such special additional pension together with additional pension, if any, to which he is entitled under the ordinary rules of his service shall exceed two thousand and five hundred rupees per annum.

13. Extraordinary pensions.—The rules for the time being in force with respect to the grant of extraordinary pensions and gratuities in relation to an officer of the Central Civil Services Class I who has entered service on or after the 1st April 1937, and who may suffer injury or die as a result of violence shall, with necessary modifications, apply in relation to a Judge.

14. Commutation of pensions.—The Civil Pensions (Commutation) Rules for the time being in force shall, with necessary modifications, apply in relation to a Judge.

15. Authority competent to grant pension.—Save as may be otherwise expressly provided in the relevant rules relating to the grant of extraordinary pensions and gratuities, the authority competent to grant pension to a Judge under the provisions of this Order shall be the President.

16. Special provisions in respect of certain continuing Judges.—(1) If any continuing Judge is eligible for a pension under paragraphs 10 and 11 or paragraph 12 of this Order, he shall elect within six months from the commencement of this Order, to receive either that pension or the pension for which he would have been eligible under the provisions applicable to him under the High Court Judges (Part B States) (Salaries and Allowances) Order, 1950, his service as a Judge being treated as service therein for the purpose of calculating the pension under the said provisions:

Provided that if he elects to receive pension under paragraphs 10 and 11 or paragraph 12 of this Order, the pension already drawn by him and the pension equivalent of the Government contribution to the contributory provident fund and other pensionary benefits, if any, which he might have already received or which he might be entitled to receive shall be deducted from the pension to which he is eligible under the provisions of this Order.

(2) If any such continuing Judge fails to exercise his option within six months from the commencement of this Order, he shall be paid pension in accordance with the scales and rules specified in the Second Schedule to this Order.

17. Certain Judges not entitled to pension under this Part.—Nothing contained in this Part shall apply in relation to a continuing Judge—

(i) who, before his appointment as a Judge of a High Court of a former Indian State, was a retired Judge of a High Court of any province; or

(ii) who has reverted to his civil appointment on the expiry of the period of his office as determined by an order of the President under clause (2) of article 376 of the Constitution.

18. Part III to apply to Judges retiring before the commencement of this Order.—The provisions of this Part shall apply in relation to any Judge who has retired as such after the 25th January 1950, and before the commencement of this Order as they apply in relation to a Judge who retires after such commencement.

PART IV—Travelling Allowance

19. Definition.—In this part, unless the context otherwise requires, "Judge" includes a person requested under article 224 of the Constitution to sit and act as a Judge of such High Court.

20. Travelling and daily allowances for travel on duty.—(1) When a Judge travels on duty, he is entitled—

- (a) when travelling by railway, to one reserved first class compartment and the fares at lowest class rates actually paid for servants not exceeding four in number;
- (b) when travelling by a steamer service, to one reserved first-class cabin, if available, or to the fare actually paid for himself, and the fares at lowest class rates actually paid to the steamer service for servants not exceeding four in number, subject to usual deductions on account of messing charges;
- (c) when travelling by a public air transport service, to the fare paid for himself and, if actually paid, the cost of transporting up to two maunds of luggage by rail at passenger rates, or steamer and the railway or steamer fares of the lowest class for servants not exceeding four in number, and the expenditure actually incurred on the transport by road of servants or luggage up to a maximum of eight annas per mile of that part of the journey by road for which no allowance is claimed under clause (d);
- (d) when travelling by road, to an allowance at the rate of one rupee per mile;

Provided that no such allowance shall be payable in respect of that portion of a journey by road for which a public air transport service provides its own transport and the fare for which journey is included in the air fare paid under clause (c) for the air journey;

- (e) to a daily allowance at the rate of twelve rupees and eight annas for each day on which the Judge is engaged on inspection or other work outside his headquarters including Sundays or other holidays intervening in the period of halt; and
- (f) to the expenditure, if any, actually incurred on the transport by passenger train or steamer at owner's risk of a motor car, and the fare at lowest class rate actually paid to a railway or steamer service in respect of one driver or cleaner for the car.

(2) If any persons (other than servants) accompany a Judge in a compartment or cabin reserved for him under sub-paragraph (1), fares shall be payable by him on their account, and the fares so paid shall, if full tariff rates have been paid by Government for the reserved accommodation, be credited to Government.

(3) For the purposes of this paragraph, a Judge shall be deemed to be travelling on duty when, during a vacation of the High Court, he proceeds from any place in India where he was spending the vacation to any other place for the purpose of doing duty and returns to such place after completion of such duty.

21. Travelling allowance in the case of a person appointed as Judge.—(1) When a Government servant, appointed to be a Judge, travels by railway to join his post, he may, at his option and in lieu of drawing travelling allowance under the ordinary rules governing a journey on transfer applicable to him, travel in a reserved first class compartment.

(2) A Government servant availing himself of this concession shall pay to Government the fare which he would have paid if no accommodation had been reserved, and shall, in addition, pay in cash to the station master of the station from which the journey commences, the fares for any members of his family accompany him, whether they share his reserved accommodation or not and when Government pays full tariff rates for the accommodation, all such fares shall be credited to Government.

(3) When a person not already in Government service is appointed to be a Judge, he may, when travelling by railway to join his post, travel in a reserved first class compartment subject to the conditions prescribed in sub-paragraph (2).

22. Travelling allowances admissible to a Judge on transfer.—When a Judge is transferred from one High Court to another, or from or to the place of the principal seat of the High Court, to or from a place where a Bench of the High Court is permanently located, he shall be entitled to the expenditure actually incurred by him on his journey by railway or by steamer to the place of sitting of the other High Court for the transport of—

- (a) the Judge himself, by a reserved first class compartment or a reserved first class cabin if one is available;
- (b) members of his family not travelling in the reserved compartment or cabin, by passenger train or steamer at first class rates;
- (c) personal servants, not exceeding eight in number, by passenger train or steamer at lowest class rates;
- (d) one motor car, by passenger train or steamer at owner's risk; and
- (e) other personal effects, not exceeding the expenditure which would be incurred in the transport of sixty maunds of goods by road and by goods train or steamer, and the expenditure incurred in embarking and disembarking such personal effects.

Explanations.—For the purposes of clause (b) of this paragraph, members of a Judge's family include only his wife, his children and his step-children, normally residing with and wholly dependent on him.

23. Allowances admissible when a Judge changes his ordinary place of residence by reason of a change in the principal seat of the High Court.—Where by reason of a change in the principal seat of the High Court a Judge changes his ordinary place of residence, he shall be entitled to the same allowances as on transfer from one High Court to another.

24. Travelling allowances admissible to a Judge in certain cases.—When a Judge—

- (a) proceeds on, or returns from leave, or
- (b) proceeds on, or returns from, vacation spent outside India, or
- (c) retires from service, or
- (d) proceeds to join another post after resigning office,

he may when travelling by railway, travel in a reserved first class compartment subject to the conditions prescribed in sub-paragraph (2) of paragraph 21.

PART V—Miscellaneous

25. Provisions as to Judges transferred from Part A States.—(1) Nothing contained in this Order shall apply in relation to a Judge who has been or is transferred from a High Court in a Part A State to a High Court in a Part B State.

(2) Notwithstanding such transfer, the conditions of service of any such Judge shall continue to be governed by the same law, rules and orders as were applicable to him immediately before such transfer.

26. Repeal.—The High Court Judges (Part B States) (Salaries and Allowances) Order, 1950, in so far as it is inconsistent with the provisions of this Order, is hereby repealed.

FIRST SCHEDULE

(See paragraph 6)

For the purposes of calculating leave allowances, service as a Judge shall be classified as follows:—

Grade I.—Service as a Judge on Rs. 3,000 p.m.

Grade II.—Service as a Judge on Rs. 2,500 p.m.

Grade III.—Service as a Judge on Rs. 2,000 p.m.

Grade IV.—Service as a Judge on Rs. 1,500 p.m.

2. (1) The monthly rate of leave allowances payable to a Judge for service in any Grade mentioned in paragraph 1 while on leave on full allowances for the second and subsequent months of leave shall be the amount specified in relation to that Grade in the second column of the Table annexed hereto.

(2) The monthly rate of leave allowances payable to a Judge for service in any Grade mentioned in paragraph 1 while on leave on half allowances shall be

the amount specified in relation to that Grade in the third column of the Table annexed hereto.

TABLE

Grade	Leave allowances for the second and subsequent months of leave on full allowances	Leave allowances for leave on half allowances
1	2	3
	Rs.	Rs.
Grade I	1,500	750
Grade II	1,350	675
Grade III	1,200	600
Grade IV	1,000	500

SECOND SCHEDULE

(See paragraph 11)

The provisions of this Schedule shall apply to a Judge who has not held any pensionable civil post under the Union or a State or having held any pensionable civil post under the Union or a State has elected to receive the pension payable under paragraph 11 of this Order.

2. For the purpose of calculating pension, service as a Judge shall be classified as follows:—

Grade I.—Service as Chief Justice on Rs. 3,000 per month and service as an *ad hoc* Judge of the Supreme Court.

Grade II.—Service as Chief Justice on Rs. 2,500 and Rs. 2,000 per month.

Grade III.—Service as any other Judge on Rs. 2,500 per month.

Grade IV.—Service as any other Judge on Rs. 2,000 per month.

Grade V.—Service as any other Judge on Rs. 1,500 per month.

3. The pension payable to a Judge shall be the basic pension specified in paragraph 4 increased by the additional pension, if any, to which he is entitled under paragraph 5.

4. (1) The basic pension to which a Judge shall be entitled shall be—

- for the first seven completed years of service for pension in any Grade mentioned in paragraph 2, the amount specified in relation to that Grade in the second column of the Table annexed hereto;
- for each subsequent completed year of service for pension in any Grade mentioned in paragraph 2, a further amount specified in relation to that Grade in the third column of the said Table;

Provided that the basic pension for service in any Grade shall in no case exceed the amount specified in the fourth column of the said Table in relation to the highest Grade in which he has rendered service for not less than one completed year.

TABLE

1	2	3	4
Grade	Basic pension for the first seven years of completed service	Basic pension for each subsequent year	Maximum basic pension
	Rs. per annum	Rs. per annum	Rs. per annum
Grade I	5,000	720	9,000
Grade II	5,000	720	9,000
Grade III	5,000	720	9,000
Grade IV	4,000	600	7,200
Grade V	4,000	600	7,200

(2) If a Judge has rendered service for pension in two or more Grades, the basic pension for the first seven completed years of service shall be—

- (a) the amount specified in column 2 of the Table below sub-paragraph (1) in relation to the highest Grade in which he has rendered service for not less than one completed year, if service rendered by him in the lower Grade or Grades is of less than seven years; or
- (b) the amount specified in column 2 of the Table below to sub-paragraph (1) in relation to the lower Grade, if the service rendered by him in that Grade is seven years or more.

5. For each completed year of service for pension in any of the Grades mentioned in paragraph 1, the Judge who is eligible for a basic pension under paragraph 4 shall be entitled to the additional pension specified in relation to that Grade in the second column of the Table annexed hereto:

Provided that the aggregate amount of his basic and additional pension shall not exceed the amount specified in the third column of the said Table in relation to the highest Grade in which he has rendered service for not less than one completed year.

TABLE

1	2	3
Grade	Additional pension per annum	Maximum aggregate pension per annum
	Rs.	Rs.
Grade I . . .	550	15,000
Grade II . . .	500	13,000
Grade III . . .	500	13,000
Grade IV . . .	350	12,000
Grade V . . .	250	10,000

6. A Judge who has rendered service for pension in two or more Grades may claim that any period of service of less than a completed year rendered by him in one Grade, or any portion of any such period, shall be treated for the purposes of paragraph 5 as service rendered by him in a lower Grade.

7. If a Judge who has served as acting Chief Justice of a High Court is subsequently appointed Chief Justice of that High Court or of any other High Court, his service as an acting Chief Justice shall for the purposes of this Schedule be treated as service as Chief Justice of the High Court in which the acting service was rendered.

8. For the purposes of this Schedule, service rendered by a Judge as an *ad hoc* Judge of the Supreme Court shall be treated as though it were service rendered in Grade I.

9. Notwithstanding anything contained in the foregoing provisions of this Schedule, the pension payable to a Judge who has completed twelve years of service for pension, including not less than six years of service as Chief Justice of one or more of the High Courts in a Part B State shall,—

- (a) if his service as Chief Justice as aforesaid has been or is rendered in the High Court of Hyderabad or Madhya Bharat or Saurashtra or Rajasthan or the Patiala and East Punjab States Union, be Rs. 15,000 per annum;
- (b) if his service as Chief Justice as aforesaid has been or is rendered in any other High Court, be Rs. 13,000 per annum.

10. Where a Judge to whom this Schedule applies retires or has retired at any time after 25th January, 1950, without being eligible for a pension under any other provision of this Schedule, then, notwithstanding anything contained in the foregoing provisions, a pension of Rs. 5,000 per annum shall be payable to such a Judge:

Provided that the pension shall be Rs. 6,000 per annum if he was a Chief Justice at the time of his retirement.

[No. F.15(20)-PA/52.]

C. S. VENKATACHAR, Secy.